

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

BRENT EDWARD MARTIN, Z-746,
Plaintiff,

v.

DARRYL MCMILLIAN,
Defendant.

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CIVIL ACTION: 1:22-00175-KD-N

ORDER

After due and proper consideration of the issues raised, and a *de novo* determination of those portions of the recommendation to which objection is made, the Report and Recommendation of the Magistrate Judge (Doc. 32) made under 28 U.S.C. § 636(b)(1)(B) and S.D. Ala. GenLR 72(a)(2)(R), and dated December 29, 2023, is **ADOPTED** as the opinion of the Court. Accordingly, it is **ORDERED** that Defendant McMillian's motion for summary judgment (Doc. 24) is **DENIED at this time**, but Defendant McMillian is **GRANTED LEAVE** to refile a motion for summary judgment for this Court's consideration following the development of an adequate record.

It is further **ORDERED** as follows:

1. Final Pretrial Conference. This action is set for a Final Pretrial Conference on **November 13, 2024 at 12:00 p.m.** (noon), in Courtroom 4B of the U.S. Courthouse, 155 Saint Joseph Street, Mobile, Alabama, 36602. This is a firm setting and the parties are expected to be ready for trial on that date. A copy of the undersigned's special requirements for Final Pretrial Conferences is Attached (Standing Order Governing Final Pretrial Conference).

2. Trial. This action is set for a non-jury (bench) trial **December 18-19, 2024.** Trial shall commence daily at **8:30 a.m.** in Courtroom 4B of the U.S. Courthouse, 155 Saint Joseph St., Mobile, Alabama, 36602.

3. The U.S. Marshal is **ORDERED** to produce Plaintiff Martin, a *pro se* prisoner, for the December 18-19, 2024 Trial.

4. This matter is **REFERRED** to the U.S. Magistrate Judge for entry of an appropriate scheduling (discovery) order.

DONE and **ORDERED** this the **30th** day of **January 2024**.

/s/ Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE